UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,092	11/02/2001	Joern Ostermann	2000-0600D	5335

26652   7590   11/25/2008

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

EXAMINER
PRENDERGAST, ROBERTA D

ART UNIT	PAPER NUMBER
2628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

Claim Objections

Claims 45-46 are objected to because of the following informalities: Claims 45-46 depend from canceled claim 17. Appropriate correction is required.

For the purpose of furthering prosecution, since applicant has indicated that claims 43-48 represent claims 16-19, which were canceled in the response to the Office Action of 25 February 2005 filed on 24 May 2005, Examiner will assume that claims 45-46 were intended to be dependent upon claim 44, which represents claim 17.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 43-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 43-48 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 43-44 and 46-48 are rejected under 35 U.S.C. 102(e) as being

anticipated by Gever et al., U.S. Patent No. 6329994.

Referring to claim 43, Gever et al. teaches a method of enabling a sender to

create a multi-media message to a recipient, the multi-media message comprising a

dialogue between at least two animated entities arranged to deliver respective portions

of a text message from the sender (Figs. 8-9B and 11(A-B); column 9, lines 2-5), the

method comprising:

presenting the sender with an option to choose at least two animated entities to

deliver respective portions of a text message to the recipient (Fig. 5; column 6, lines 46-

57; column 9, lines 2-5 and 21-31; column 17, lines 36-42; column 21, lines 32-38;

column 23, lines 45-57, i.e. a user of a source computer creates a computer animation

by selecting a plurality of Smart Objects, such as a host character (Fig. 8 (element 160))

and a female character (Fig. 8 (element 160)), each Smart Object character is given a

name and an Index I in the scene, the host 160 "interviews" character 64, based on a

script and on the appropriate behaviors of the associated Smart Objects, the script of

the animation appears, line by line, in a dubbing strip 154, while the characters 64 and

160 are also seen and also heard to speak their appropriate lines, each line includes a

tag indicating the name of the animated entity chosen to deliver that portion of the text),

the choice of which animated entity to deliver which portion of the text message

being effected by the insertion in the text message of an indicator associated with the

chosen animated entity (column 8, lines 47-65; column 17, lines 36-42; column 20, lines

4-8 and 55-65; column 23, lines 45-57; column 31, lines 1-7, 38-47 and 60-65, i.e.

during the creation of the computer animation, each Smart Object character is given a

name and an Index I in the scene, the host 160 "interviews" character 64, based on a

script and on the appropriate behaviors of the associated Smart Objects, the script of

the animation appears, line by line, in a dubbing strip 154, while the characters 64 and

160 are also seen and heard to speak their appropriate lines, each line includes a tag

indicating the name of the animated entity chosen to deliver that portion of the text, thus

providing an indicator associated with the chosen entity); and

delivering the multi-media message where the chosen animated entities deliver

respective portions of the text message according to a position in the text message of

the indicator associated with the animated entity (column 8, lines 47-65; columns 8-9,

lines 66-5; column 20, lines 51-67; column 23, lines 46-57; column 28, lines 42-59;

column 31, lines 1-7, 38-47 and 60-65, i.e. the computer animation is encapsulated into

an HTML file and transmitted/delivered to the recipient computer as an e-mail message,

as can be seen in figures 8-9B and 11A-B, each character/animated entity in the scene are heard to speak their appropriate lines by speaking according to the position in the text message/script of their character names as shown in the dubbing strip 154).

Referring to claim 44, Gever et al. teaches a method of enabling a sender to create a multi-media message to a recipient, the multi-media message comprising a dialogue between at least two animated entities arranged to deliver respective portions of a text message from the sender, the method comprising:

receiving from the sender a text message comprising an indicator of a first animated entity and text associated with the first animated entity, and an indicator of a second animated entity and text associated with the second animated entity (column 8, lines 47-65; column 17, lines 36-42; column 20, lines 4-8 and 55-65; column 23, lines 45-57; column 31, lines 1-7, 38-47 and 60-65, i.e. each Smart Object character is given a name and an Index I in the scene, the host 160 "interviews" character 64, based on a script and on the appropriate behaviors of the associated Smart Objects, the script of the animation appears, line by line, in a dubbing strip 154, while the characters 64 and 160 are also seen and heard to speak their appropriate lines, each line includes a tag indicating the name of the animated entity chosen to deliver that portion of the text, thus providing an indicator associated with the chosen entity); and

delivering the multi-media message wherein the first animated entity delivers the text associated with the first animated entity and wherein the second animated entity delivers the text associated with the second animated entity (column 8, lines 47-65; columns 8-9, lines 66-5; column 20, lines 51-67; column 23, lines 46-57; column 28,

lines 42-59; column 31, lines 1-7, 38-47 and 60-65, i.e. the computer animation is encapsulated into an HTML file and transmitted/delivered to the recipient computer as an e-mail message, as can be seen in figures 8-9B and 11A-B, each character/animated entity in the scene are heard to speak their appropriate lines by speaking according to the position in the text message/script of their character names/identifiers as shown in the dubbing strip 154).

Referring to claim 46, the rationale for claim 44 is incorporated herein, Gever et al. teaches the method of enabling a sender to create a multi-media message to a recipient of claim 17, further comprising:

providing the sender with options to control the position of each animated entity chosen within the multi-media message (column 6, lines 1-4; column 20, lines 4-8, 33-37 and 55-67; column 28, lines 54-59, i.e. the user interface enables the user to create scripts and otherwise define animation sequences including, for example, motion paths, sound and interactions of the Smart Objects with one another and/or a viewer thus providing external scripts capable of causing the Smart Objects to speak their lines and move between appropriate, predetermined positions).

Referring to claim 47, the rationale for claim 43 is incorporated herein, Gever et al. teaches the method of claim 43, wherein the text message is an email message (column 8, lines 51-58; columns 8-9, lines 66-5; column 9, lines 21-31; column 11, lines 7-10, i.e. the animation sent from the source to the destination computer comprises one or more Smart Objects, preferably a 3D Smart Object programmed as an avatar, wherein the avatar conveys an electronic mail message to a user at the destination

computer such that the avatar may be incorporated as a participant in a conference,

interview or panel discussion conducted over the Internet or another network).

Referring to claim 48, claim 48 recites all of the elements of claims 44 and 47

and therefore the rationale for the rejection of claims 44 and 47 are incorporated herein.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Gever et al. as applied to claim 44 above, and further in view of Rosenblatt et al.,

U.S. Patent No. 6453294.

Referring to claim 45, the rationale for claim 44 is incorporated herein, Gever et

al. teaches the method of enabling a sender to create a multi-media message to a

recipient of claim 17, but does not specifically teach receiving in the text message

sender emoticons; and delivering the multi-media message using the emoticons

wherein each emoticon is associated with a most immediately preceding animated

entity indicator within the text message.

Rosenblatt et al. teaches this limitation (paragraph [0015], lines 7-11; paragraph

[0019], lines 1-6; paragraph [0022], i.e. a text window is provided that enables the user

to enter and edit text to be voiced by a selected virtual/animated representative/entity,

the text includes basic emotion cues that the selected virtual representative will evoke while conveying the corresponding portion of the transmitted text, thus indicating that the text message voiced by the selected entity includes sender emoticons wherein each emoticon is associated with the text message being voiced and thus is associated with a most immediately preceding animated entity indicator within the text message since the immediately preceding animated entity indicator is understood to be indicating the entity selected to voice the text).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Gever et al. to include the teachings of Rosenblatt et al. wherein the user is able to enter text to be voiced by the selected virtual representative such that the text includes emoticons representing facial expressions and emotions that the selected virtual representative will evoke while conveying the corresponding portion of the transmitted text thereby providing a highly flexible, programmable player that is modularized such that it may be used and programmed inside a Web browser, used for reading e-mail files, or embedded in applications for performing a variety of system interactions and wherein the GUI is integrated in a client mail application such that the player GUI is invoked in response to an e-mail message whereby the attachment of the e-mail message contains a media file comprising a representation of the text to be voiced by a selected virtual representative, along with the designated emotion cues wherein the player generates an image of the virtual representative and modifies this image, based on the emotion cues, as the text data is voiced (Rosenblatt et al.: paragraphs [0021]-[0022]).

Response to Arguments

Applicant's arguments with respect to new claims 43-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERTA PRENDERGAST whose telephone number is (571)272-7647. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

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11/9/2008